

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 17899
[REDACTED],)	
)	DECISION
Petitioners.)	
_____)	

On June 27, 2003, the Tax Discovery Bureau of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination (NOD) to [Redacted] (petitioners), proposing income tax, penalty, and interest for the years 1997, 1998, 1999, 2000, and 2001 in the total amount of \$103,269.

On August 27, 2003, a timely protest and petition for redetermination was filed by the petitioners' representative. An informal hearing has not been requested by the petitioners or their representative. The Commission has reviewed the file, is advised of its contents, and hereby issues its decision modifying the NOD.

The petitioners failed to file their 1997, 1998, 1999, 2000, and 2001 individual income tax returns. On April 15, 2002, the Tax Discovery Bureau sent a letter with a questionnaire to the petitioners to help the Commission properly determine the petitioners' filing requirement. The petitioners did not respond to this letter, so i[Redacted]. The Commission issued a NOD on June 27, 2003, to the petitioners [Redacted].

In the petitioners' protest letter dated August 27, 2003, the representative stated that the petitioners did not agree with the Commission's NOD and would like to file actual returns for those years.

The Commission received the petitioners' 1997, 1998, and 1999 Idaho individual income tax returns on November 22, 2004, and these returns were signed by the petitioners. The Commission received the petitioners' 2000 and 2001 Idaho individual income tax returns on August 23, 2005, but these returns were not signed by the petitioners. The Commission has determined that all the submitted returns represent the petitioners' taxable income better than the returns prepared by TDB.

The petitioners' income tax returns for the years 1997, 1998, 1999, 2000, and 2001 have not been audited and are subject to the Commission's normal review process.

The petitioners' returns for 1997, 1998, 1999, and 2001 resulted in refunds. However, Idaho Code section 63-3072(c) prohibits refunding or crediting the overpayment of Idaho income taxes withheld and Idaho Code section 63-3024A(g) does not allow a refund claim allowed in that section if the claim for credit or refund was not filed within three (3) years of the due date of the return. The petitioners' 1997, 1998, 1999, and 2001 returns had due dates of April 15, 1998, April 15, 1999, April 15, 2000, and April 15, 2002, respectively. Since the petitioners submitted their 1997, 1998, and 1999 returns on November 22, 2004, and 2001 return on August 23, 2005, well outside the three-year statute of limitations, no credit or refund allowed under 63-3024A(a) or 63-3072(c) will be issued for these years.

[Redacted] The petitioners' representative provided the Commission with the petitioners' actual Idaho income tax returns for all years in question, but the petitioners failed to sign the 2000 and 2001 returns. Therefore, the Commission must uphold the deficiency as modified.

WHEREFORE, the Notice of Deficiency Determination dated June 27, 2003, is hereby APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the petitioners pay the following tax, penalty, and interest:

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
1997	\$ 0	\$ 0	\$ 0	\$ 0
1998	0	0	0	0
1999	0	0	0	0
2000	97	24	30	151
2001	0	0	0	<u>0</u>
TOTAL DUE				<u>\$ 151</u>

Interest is computed through December 30, 2005.

DEMAND for immediate payment of the foregoing amount is hereby made and given.

An explanation of the petitioners' right to appeal this decision is enclosed with this decision.

DATED this ____ day of _____, 2005.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this ____ day of _____, 2005, a copy of the within and foregoing DECISION was served by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[REDACTED]

Receipt No.

[REDACTED]
